

A Guide For The Report of Survey Officer

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1. Purpose. This guide is intended to assist you in conducting a timely, thorough, and legally sufficient report of survey (ROS). It is based on the 10 June 2002 edition of Army Regulation (AR) 735-5, Policies and Procedures for Property Accountability. This regulation and DA PAM 735-5, Survey Officer's Guide, are your principal references for guidance. Process the ROS in accordance with the version of AR 735-5 in effect at the time that the loss, damage, or destruction occurred. You are encouraged to seek legal advice at any stage of your investigation whenever you have a question. You may reach an Administrative Law Attorney by calling 221-2373/0485. The Administrative and Civil Law Division, Office of the Staff Judge Advocate, is located in Building No. 134 (Stanley Road).

2. What is your mission? You investigate the loss, damage, or destruction of government property. Your objectives are to determine the cause of the loss, damage, or destruction and to assess financial responsibility, if appropriate. Your investigation is a fact-finding mission. Once you collect the facts, you draw conclusions. The conclusions are your findings. Based on these findings, you make recommendations. The chain of command will act on your recommendations.

3. How do you start your investigation?

a. You will be provided with a copy of DA Form 4697, "Report of Survey." The front half of the form will already be completed. This form will provide you with the basic information on what government property was lost, damaged, or destroyed and the date and circumstances of the loss (Block 11), if known. You should contact the Administrative and Civil Law Division, Office of the Staff Judge Advocate, AMEDDC&S and Fort Sam Houston, for a ROS briefing, if you have not been briefed before. Read the form (and any attached exhibits) and promptly start your investigation. In conducting the investigation, strive to answer the six basic questions: "what," "when," "where," "how," "why," and "who." In other words, make sure you answer the following questions:

- (1) What was lost, damaged, or destroyed?
- (2) When was it lost, damaged, or destroyed?
- (3) Where was it lost, damaged, or destroyed?

- (4) How was it lost, damaged, or destroyed?
- (5) Why was it lost, damaged, or destroyed?
- (6) Who is responsible for the loss, damage, or destruction?

b. Record the substance of your interviews on DA Form 2823, "Sworn Statement." When a DA Form 2823 is not available, use plain bond or ruled paper. Type or legibly print the word "CERTIFICATE" across the top of the plain bond or ruled paper. Either form of statement must be dated and signed by the individual making the statement. As a survey officer, you are authorized to administer oaths. Do not treat this aspect of your duties lightly. Have the witness raise his or her hand and solemnly swear/affirm to the truthfulness of his/her statement. See AR 15-6, figure 3-1, for the format for an oath. You may administer the oath at the beginning of an interview or at the conclusion. You should sign the form below the individual's signature acknowledging that you have administered the oath. Finally, the statement should be lettered alphabetically as an exhibit, followed by "R/S," the date of the survey, the amount of the survey, and the organization initiating the survey. For further guidance on preparing either DA Form 2823 or a "Certificate," see AR 735-5, paragraph 13-29g.

c. As the investigating officer (IO), you should be senior to any individual subject to the potential assessment of financial liability. If during the investigation you find you are not senior, or that completing the investigation will require you to examine the conduct or performance of duty of persons senior to you, report this to the approving authority. The approving authority will either excuse you or direct you to continue the investigation. In the latter case, the approving authority will document the military exigency that prevented appointing another IO. A copy of this memorandum should be attached to the ROS as an exhibit.

d. It is important to start the investigation right away, while the facts and circumstances are still fresh in everyone's mind. Normally you are given 30 calendar days to conduct the investigation. If unable to complete the investigation in the time allotted, you must explain, in writing, why there was a delay and attach the explanation to the report as an exhibit. If during the course of your investigation you have probable cause to believe that someone has committed a crime, then you must read the person his Article 31/Fifth Amendment rights before questioning. Whenever you believe it is necessary to advise a witness or respondent of their rights under the Uniform Code of Military Justice, Article 31b, or the Fifth Amendment, you should consult with an Administrative Law Attorney prior to questioning the individual. Reluctant witnesses, without Article 31b rights, may be compelled to answer questions, if necessary.

4. Determining "what" was lost, damaged, or destroyed.

a. Your first task is to determine "what" was lost, damaged, or destroyed. Usually, this task will be straightforward as all you need to do is examine the front side of the DA Form 4697, and the property that was lost, damaged, or destroyed will be apparent. It then will be an easy task to collect documents that establish the loss, damage, or destruction. For example, you can obtain a

copy of the hand receipt that shows that property was issued and now is lost. With damaged or destroyed property, you can usually examine the property, obtain pictures, police reports, and estimated or actual costs for the damage or destruction. You then will have answered the “what” question and will be prepared to support your answer with exhibits.

b. If the survey involves damaged property, paragraph 13-29c, AR 735-5, directs you to examine the property immediately. You then must release the property for repair or turn-in. If an expert opinion would be helpful in determining the cause of the damage, the fair market value (FMV) or the estimated cost of repair (ECOD), ensure that technical inspectors examine the property and give a written opinion.

c. With lost property, answering the “what” question may be more complex. You also must resolve the questions of whether the “missing” property is really lost and/or whether or not it ever existed. For example, when dealing with lost components from major end items, determine how the loss was identified. Was the property identified, for example, by using a new edition of a manual? If it was, determine whether the property had been issued and accounted for using a prior edition of the manual. The old edition may have had a less-inclusive list of required components and the missing property may really not be missing because it was never issued. In this case, no loss has occurred and the survey should be canceled. Similarly, when dealing with losses from major end items, determining if shortage annexes have been prepared is important. If a shortage annex exists and the component was properly annotated, the property may have never been present in the unit. The date that the shortage annex was prepared is critical. If the shortage annex is recent, the property was probably lost recently. If it is old, the property may never have been present. Remember, if the property never was present, no loss has occurred.

d. You must always attempt to locate lost property. The nature of the search will depend on the type of property lost and the “why” and “where” of its loss. For example, if night vision goggles were lost on a field training exercise (FTX), check with other units that were on the FTX and see if they have them. If accountability for property such as linen was lost, you may be required to conduct a thorough inventory of linen in the unit or other co-located units. On the other hand, if you are certain that the property fell off the back of a truck at the National Training Center (NTC), you can do little to locate the property (determine, however, whether a search was conducted at the NTC).

5. What to do if property is recovered during the survey?

a. During the course of the investigation, you may find the property that had been reported missing. Paragraph 14-16, AR 735-5, provides detailed guidance on the steps that must be followed to reestablish accountability. If all property listed on the report is recovered, report the find to the S4 or to the approving authority. Once the recovery of the property is verified, your job is done. The approving authority will direct that the steps required by paragraph 14-16 are taken to close the survey.

b. If some, but not all, of the property is recovered, you will inform the approving authority and continue to look into the cause of the loss for the remaining property. Paragraph 14-16c

provides that the approving authority will forward a memorandum to the accountable officer instructing him or her to reestablish accountability for the property recovered. In addition, the accountable officer will amend the survey by lining out the entries that correspond to the recovered property and reduce the dollar totals shown on the survey by the value of the recovered property. A copy of the aforementioned memorandum with the accountable officer's endorsement will be attached to the report of survey as an exhibit.

6. Determining “when” property was lost, damaged, or destroyed.

a. Often, when the loss occurred is clear. You need only confirm the accuracy of the information in block 11 of DA Form 4697. In other cases (such as when an inventory determined property to be missing) determining “when” the loss occurred may be difficult, or even impossible. You may only be able to determine “why” the loss occurred and “who” was responsible. For example, you may conclude that because the property was left unsecured, it was lost through theft at an indeterminate time or that it was issued at an indeterminate time without a hand receipt, and that this caused a loss of accountability.

b. If determining “when” the loss occurred is not possible, attempt to determine when the property was accounted for last. Resolving when the property was last accounted for will assist you in determining the “who” and the “why” questions of the loss. If you are unable to pinpoint the “when” of the loss, you still may be able to make a legally sufficient recommendation for financial liability. You need only conclude that the property was lost because of negligence (the “why” question) on the part of a specific individual (the “who” question).

7. Determining “where” loss or damage occurred. This is usually the easiest question to answer because this requires merely verifying the details found in block 11, DA Form 4697. When you have difficulty determining the place of loss, an “accountability” problem is often the reason for the loss. For example, an individual may have signed for the property and subsequently issued it, but failed to obtain a subhand receipt.

8. Determining “how” loss or damage occurred.

a. Determining the “where” and “when” of the loss, will often point you to “how” the loss or damage occurred. The loss or damage may be the result of a single act or omission (failure to act) or a combination of acts and/or omissions. An omission is a failure to act where the individual had the duty to act responsibly. A “loss” means loss of, damage to, or destruction of, property of the U.S. Government. A “loss” can also mean a loss from accountability. Even though the Government sometimes may not be able to determine the “who,” “when,” and “where” of the physical loss, damage or destruction, liability can still be established where the IO finds an act(s) and/or omission(s) which amounts to a failure to maintain property accountability. Paragraph 13-28d, AR 735-5, provides that an individual may be held financially liable for a “loss from accountability.”

b. For example, a recent 100% inventory of the unit supply room determined that various items were missing. There is no evidence of theft and you cannot determine to whom the

property was issued. The individual who last was responsible for the items may be liable. The basis for a recommendation of liability would be the loss of accountability. SSG Sheets, the Supply Sergeant, is known to have issued property to unknown soldiers without obtaining hand receipts. SSG Sheets is liable because of his failure to maintain accountability for the property.

c. On the other hand, if the investigation clearly reveals that SSG Sheets issued the now missing property to PFC Snuffy without obtaining a hand receipt, SSG Sheets should not be held liable. Even though a hand receipt was not obtained, accountability for the property was not lost when the property was issued to PFC Snuffy. PFC Snuffy now has the responsibility for accounting for the property. If PFC Snuffy has lost or damaged the property, he can be held financially liable. Because the property clearly was issued to PFC Snuffy, SSG Sheet's negligence in issuing the property without a hand receipt, did not proximately lead to the loss or damage. The investigation must focus on PFC Snuffy's conduct. For further guidance, see the discussion on proximate cause in paragraph 11a(5)(e) below.

9. Determining "why" loss or damage occurred.

a. Determining the reason ("why") for the loss is a critical part of the investigation. Having already determined the "what," "when," "where," and "how" of the loss or damage, the determination of "why" the loss or damage occurred should be straightforward. For example, block 11, DA Form 4697, may indicate "I, CPT Hard Rock, make the following statement: My vehicle was damaged when PVT Bad News intentionally launched and struck it with a TOW missile." To answer the "why" question, all you need to do is to verify these facts, support them with evidential exhibits, and state your findings and recommendations concerning the loss or damage in the narrated portion (block 26) of the report of survey (DA Form 4697).

b. In other cases, explaining the "why" of the loss or damage may be more difficult. For example, block 11, DA Form 4697, may indicate "I, CPT Hard Rock, make the following statement: The incoming commander and I conducted a 100% change of command inventory and after a thorough search of the area, the above listed shortages could not be located." How do you attempt to answer the "why" question in a case like this? The following guidance will assist you in answering this question.

(1) Start with what you know. Property described in block 7, DA Form 4697, has been determined to be missing. Therefore, the "what" question has been answered partially. As discussed in the "what" section, you still must verify that the property really is missing.

(2). Next, determine who was responsible for the property. This involves learning to whom the property was formally issued at the lowest level. To answer this, you must obtain a copy of the basic inventory documents including any hand or subhand receipts. These copies should be preserved as exhibits to the report.

(3). Once you have determined the last person to whom the property was formally issued, determine what happened to the property. For example, examine the following:

(a). Where was it stored? What, if any, security precautions were taken? If it was not secured properly, the “why” of the loss may have been theft.

(b). Was it issued without a hand or subhand receipt? If so, the “why” of the loss may have been a loss of accountability.

(4). If it was given to an identified individual but not hand/subhand receipted, you must attempt to resolve the questions discussed above in subparagraphs (3)(a) and (3)(b), as they pertain to that individual. Your goal is to determine who was the last person identified, formally or otherwise, as responsible for the property, and then determine “why” the property was lost.

10. Determining “who” is responsible for the loss or damage. If you are able to answer the “what,” “when,” “where,” “how,” and “why” of the loss or damage, you usually will have answered the “who” question. Answering the “who” question is simply a conclusion based on your investigation and assessment of the evidence collected of who caused the “what,” “when,” “where,” “how,” and “why” of the loss, damage, or destruction. If answering these questions is not possible, you may not be able to answer the question of “who.” In this unlikely event, you should state in block 26, DA Form 4697, whether or not further investigation is warranted. To thoroughly consider the possibilities of who may be negligent and thus held financially liable, the IO must consider the different types of responsibility: command, supervisory, direct, custodial, and personal.

a. **Command responsibility** is the obligation of a commander to ensure all Government property within his or her command is properly used and cared for, and that proper custody and safekeeping of Government property are provided. It is evidenced by assignment to command at any level and includes—

- (1) Ensuring the security of all property within the command, whether in use or in storage.
- (2) Observing subordinates to ensure their activities contribute to the proper custody, use, and safekeeping of all property within the command.
- (3) Enforcing all security, safety, and accounting requirements.
- (4) Taking administrative or disciplinary action when necessary.

b. **Supervisory responsibility** is the obligation of a supervisor to ensure all Government property issued to, or used by his or her subordinates, is properly used and cared for, and that proper custody and safekeeping of the property are provided. It is inherent in all supervisory positions and is not contingent upon signed receipts or responsibility statements. It arises because of assignment to a specific position and includes—

- (1) Providing proper guidance and direction.
- (2) Enforcing all security, safety, and accounting requirements.
- (3) Maintaining a supervisory climate that will facilitate and ensure the proper care and use of Government property.

c. **Direct responsibility** is the obligation of a person to ensure all Government property for which he or she has receipted is properly used and cared for, and that proper custody and safekeeping are provided. Direct responsibility results from assignment as an accountable officer, receipt of formal written delegation, or acceptance of the property on hand receipt from an accountable officer.

d. **Custodial responsibility** is the obligation of an individual for property in storage awaiting issue or turn-in to exercise reasonable and prudent actions to properly care for, and ensure property custody and safekeeping of the property are provided. Custodial responsibility results from assignment as a supply sergeant, supply custodian, supply clerk, or warehouse person, and is rated by and answerable directly to the accountable officer or the individual having direct responsibility for the property. Responsibilities include—

(1) Ensuring the security of all property stored within the supply room and storage annexes belonging to the supply room or supply support activity (SSA) is adequate.

(2) Observing subordinates to ensure their activities contribute to the proper custody, care, and safekeeping of all property within the supply room and storage annexes belonging to the supply room or SSA.

(3) Enforcing all security, safety, and accounting requirements.

(4) When unable to enforce any of these, reporting the problem(s) to their immediate supervisor.

e. **Personal responsibility** is the obligation of a person to exercise reasonable and prudent actions to properly use, care for, and safeguard all Government property in his or her physical possession. It applies to all Government property issued for, acquired for, or converted to a person's exclusive use, with or without receipt.

11. Completing the Report of Survey.

a. **Findings.** Once you have completed the investigation and believe that you are prepared to answer the “what,” “when,” “where,” “how,” “why,” and “who” questions, begin to draft your findings. Paragraph 13-30a, AR 735-5, requires you to state the facts in your own words and to make your findings complete, so that the reviewer can easily see the basis for liability without returning to the report of survey for more information. Speculation, suspicion, or opinion that is not supported by evidence is strictly prohibited.

(1) When writing findings, start with a conclusion. Block 26 contains language that makes starting with a conclusion easy. The preprinted language states, “I have examined all available evidence as shown in exhibits ___ to ___ and as indicated below have personally investigated the same and it is my belief that the article(s) listed hereon and/or attached to sheets, total cost \$____.” You should continue this preprinted language by writing:

(a) was/were (lost, damaged, or destroyed) through the (simple, gross negligence) of _____; or

(b) was/were (lost, damaged, or destroyed) by the willful misconduct of _____; or

(c) was/were (lost, damaged, or destroyed) as the result of (an unavoidable accident, an unpreventable theft, indeterminable circumstances, etc.).

(2) By stating a conclusion, you have answered the “what” question; you have told the reviewer that the property listed in block 7 was lost, damaged, or destroyed. Go on to state in your own words, how the loss, damage, or destruction occurred. In so doing, explain the “when,” “where,” “how,” “why,” and “who” of the loss by writing:

(a) “When” it was lost, damaged, or destroyed;

(b) “Where” it was lost, damaged, or destroyed;

(c) “How” it was lost, damaged, or destroyed;

(d) “Why” it was lost, damaged, or destroyed;

(e) “Who” is responsible for the loss, damage, or destruction.

(3) Whenever possible, reference your findings to exhibits, so that the reviewer may see the basis for your findings. In writing findings, your goal is to explain, in narrative format, the cause of the loss, damage, or destruction. Your narrative must support the conclusion with which you started your findings. If the survey contains contradictory evidence, or if you relied on self-serving statements from the individual who was responsible for the property, you must explain how you resolved the contradiction or what other evidence confirms the self-serving statement. For further guidance, see AR 735-5, paragraphs 13-30a(1) and (2).

(4) A reviewer should be able to read the finding(s) and see clearly that certain property was lost, damaged, or destroyed in a certain manner, at a certain place or time, and by a certain individual. At its most basic, the reviewer should be able to see how the individual was negligent and how that negligence caused the loss, damage, or destruction. If you can not answer any of the “what,” “when,” “where,” “how,” “why,” and “who” questions, explain that in your findings.

(5) In order to find an individual financially responsible for the loss, damage, or destruction, you have to find the individual committed an act or omission which was the proximate cause of the loss, damage, or destruction. That act or omission must amount to either simple negligence, gross negligence or willful misconduct.

(a) Willful Misconduct. Willful misconduct involves an intentional act or omission (failure to act), specifically aimed at damaging or losing the property. For example, if PVT Schmedlap became angry and blew up his commander’s office with a claymore mine, he would have committed an act of willful misconduct. He intended to destroy the commander’s office, its

contents, and the mine. Similarly, if PVT Schmedlap (the duty driver) intentionally failed to perform the operator's preventive maintenance check of the Humvee before driving it this morning, then he should be held financially responsible when the engine seizes because of a lack of engine oil. If there is insufficient evidence of intent, PVT Schmedlap can still be held financially responsible for the damaged Humvee, since his conduct constitutes, at the minimum, simple negligence. Simple negligence does not require intent.

(b) Gross negligence. Gross negligence is an extreme departure from "due care" resulting from an act or omission which falls far short of that degree of care for the property that a reasonably prudent person would have taken under similar circumstances. It is accompanied by a reckless, deliberate, or wanton disregard for the foreseeable loss or damage to the property.

(c) Simple Negligence. In order to hold an individual financially responsible for the loss, damage, or destruction, you must determine, at the minimum, that the individual's act or omission constitutes simple negligence. AR 735-5, (Consolidated Glossary) defines simple negligence as "the failure to act as a reasonably prudent person would have acted under similar circumstances." Paragraph 13-28b(4), AR 735-5, cites several factors to be considered in determining whether negligence is involved. Was there an act or omission (failure to act) which was unreasonable and which caused the loss. To be unreasonable, the evidence must show that another individual, of similar experience and relationship to the property, as a matter of common sense, would have acted differently. In this regard, you must consider the various types of property responsibility listed in paragraph 13-28a, AR 735-5. The type of property responsibility which an individual has determines the obligations incurred by the individual towards that property.

(d) Negligence Presumed. In some cases, you may not be able to determine the actual specifics of the loss, damage, or destruction. Nonetheless, you still may be able to conclude that a certain individual is responsible for the loss. This is done by "presuming negligence." You may presume negligence when you find that an individual had exclusive access and control over the property and you can rule out all other causes for the loss.

Example 1. Private Fleet Foot goes absent without leave (AWOL). His TA-50 is immediately secured and inventoried by the company commander and most of it is missing. Because PVT Foot had exclusive control over his TA-50 and it was immediately secured and inventoried at the inception of the AWOL, PVT Foot may be presumed to have been the cause of the loss. If, however, the property was neither secured nor inventoried for several months after PVT Foot went AWOL, the presumption may not apply. In that case, you would look at the supervisory responsibility of the company commander and his failure to meet the regulatory requirement for securing and inventorying the property of AWOL soldiers.

Example 2. Private Broken Up is injured at the NTC and evacuated to the hospital. His TA-50 was lost. Because another explanation for the loss may exist, negligence may not be presumed. The equipment may not have been secured by the chain of command after PVT Broken Up was evacuated to the hospital. Unless you can show that PVT Broken Up already

had lost the equipment or had failed to take the proper measures to safeguard his equipment prior to the time of his injury and evacuation, you may not presume PVT Foot negligent.

Example 3. Supply Sergeant Careless has exclusive control over the supply room and the property therein (he has the only key). All linen was accounted for when he signed for the supply room. Three months later, an inventory determines that 30% of the linen is missing. No signs of theft can be found. Because SSG Careless had exclusive control of the supply room and other causes of loss have been ruled out, SSG Careless may be presumed to have caused the loss.

(e) Proximate Cause. Even though you have established a negligent act on the part of an individual, that individual may not be held liable unless his negligent act proximately caused the loss, damage, or destruction. That is, that person's act(s) and/or omission(s) was the cause that, in a natural and continuous sequence, unbroken by a new cause, produced the loss, damage, or destruction, and without which the loss, damage, or destruction would not have occurred. Proximate cause may be best explained by the following examples.

Example 1. Specialist Smith leaves a set of night vision goggles unattended on the seat of his unlocked Humvee in the PX parking lot. The goggles are stolen. Specialist Smith's simple negligence caused the loss. By placing the goggles in a location where theft was reasonably foreseeable, he created the conditions that allowed the loss by theft to occur. In other words, SPC Smith's negligence proximately caused the resulting loss.

Example 2. Assume the same facts as in example 1. First Sergeant (1SG) Out O. Luck recovers the goggles, but subsequently manages to lose them. SPC Smith is off the hook. Although he was negligent, his negligence did not cause the loss. The goggles were returned to the control of the Army when SSG Out O. Luck recovered them. SPC Smith can not be held responsible for the actions of 1SG Luck. Of course, if the evidence supports it, 1SG Luck may be recommended for liability.

Example 3. Private Foyt is driving his 2 1/2 ton truck at 65 miles-per-hour down a 45 degree hill on a dirt road at the NTC. He fails to negotiate a sharp turn at the bottom of the hill and the truck crashes and burns. If the survey officer concludes that PVT Foyt was negligent (driving too fast for the conditions), PVT Foyt's negligence logically caused the accident. If PVT Foyt had not been driving too fast, the accident would not have happened. By driving too fast, PVT Foyt's negligence proximately caused the loss.

Example 4. Corporal Crash is driving his Humvee at fifty miles-per-hour down Stanley Road, Fort Sam Houston (a 20 miles-per-hour zone). A limb on an old pine tree breaks, falls, and shatters his windshield. Even though Corporal Crash was negligent in driving too fast, his negligence did not cause the accident. The tree limb would have fallen anyway. Corporal Crash's speeding did not hasten the tree limb's fall. That he was driving at the wrong place at the wrong time was pure chance. If, for example, he had left the motor pool a few minutes earlier, but had not been speeding, the damage still could have resulted. Even though he was driving too fast, Corporal Crash's speeding did not proximately cause the damage.

Example 5. SSG Supply negligently issued property without obtaining hand receipts. Because of SSG Supply's failure to obtain hand receipts, you can not determine the actual specifics of the loss: i.e., the property can not be located; you can not determine the dates of issuance; and you can not determine to whom the property was issued. SSG Supply's negligent omissions (the failure to obtain hand receipts as required by regulation) constitute a failure to maintain property accountability. This negligent failure to maintain property accountability proximately caused the loss of accountability.

(6) You must also set out (blocks 26 through 27c) the actual value of the property at the time of the loss, minus any salvage or scrap value. Actual value may be computed in one of three ways:

(a) Fair market value (FMV) is the preferred method of fixing the value of the property at the time of loss or damage. The preferred method for determining FMV is an appraisal. Appendix B (paragraph B-2a), AR 735-5, explains the process. When an appraisal is not possible, you may use the commercial price of a similar item.

(b) If you can not determine the FMV, the value at the time of the loss or destruction may be computed by subtracting depreciation from the current Army master data file (AMDF) price (block 10, DA Form 4697) or other standard price for a new item. Depreciation is not deducted on loss or damage to new property. AR 735-5, Appendix B, paragraph B-2b, sets forth the rules for determining depreciation. The survey officer must attach a written explanation to the report showing how depreciation was calculated. Appendix B, paragraph B-2b(6), permits you to increase or decrease the depreciation rates when you conclude that the property was subjected to more or less use as applicable. Table 11-1, DA PAM 27-162 (Claims Procedures), may also be used as a guide for determining a fair rate of depreciation.

(c) When determination of FMV or depreciated value is not possible or equitable and the property has been used long enough to warrant overhaul, the value of the loss or damage may be computed by subtracting the (published) standard rebuild cost plus any salvage value from the current AMDF price for the item. For guidance, see paragraph B-2c, Appendix B, AR 735-5.

(d) The value of repairable property will be the repair cost required to return the damaged property to the condition it was in at the time of the damage or the value of the item at the time of damage, whichever is less. The actual cost of repairs (ACOD) consists of the sum of the costs of material, labor, overhead, and transportation, minus any salvage or scrap value of any replaced component parts. If repair makes the item more valuable than it was at the time of the loss, reduce the cost of repairs by the amount of the increase in value. When the actual repair cost can not be determined or can not be obtained within a reasonable time, the estimated cost of damage (ECOD) will be used. Technical personnel will prepare a written estimate of the ECOD to be included in the report.

(e) To complete block 27, DA Form 4697, record the amount of the actual loss, not the block 10 value, in block 27a. Record the total amount of recommended liability in block 27b.

Record the difference between blocks 27a and 27b in block 27c. For an example, see AR 735-5, figure 13-6A.

(7) If uneconomically repairable property was surveyed, you must explain its disposition or recommended disposition. If you find an item to be uneconomically repairable, that should be explained in block 26, DA Form 4697, under “Recommendations.”

b. Recommendations. Immediately after making findings, you must make recommendations. Start this section with the word “Recommendation(s).” Two general types of recommendations can be made. These are “relief from responsibility and accountability” or “financial liability.” They also must indicate whether the survey lists property for which a claim may be processed under AR 27-20. For further guidance, see AR 735-5, paragraph 13-30c.

(1) Relief from responsibility and accountability. If you are unable to determine the cause of, or responsibility for, the loss, damage, or destruction, you should recommend that all parties be relieved of accountability and responsibility. You should make a similar recommendation, if you determine that neither negligence nor willful misconduct was involved.

(2) Financial liability. If you conclude that an individual’s negligence or willful misconduct caused the loss or damage, you must make a recommendation for financial liability. Start a recommendation for financial liability by giving the individual’s full name, social security number, basic pay (for DOD civilians, 1/12 of his annual pay) at the time of the loss, and the date that the individual is expected to terminate his service or employment. You also must state clearly the amount of liability.

(3) How much liability?

(a) General rule. A soldier’s liability usually will be limited to his monthly basic pay (1/12 of a civilian’s annual pay) at the time of the loss or the actual loss to the government, whichever is less. Note that it is the monthly basic pay at the time of the loss, not at the time of the investigation. Note also, that for losses involving reservists, it is the monthly basic pay for active-duty, not for reserve duty, even though the loss may have occurred on reserve duty. When two or more surveys have been initiated for the same incident, AR 735-5, paragraph 13-39b provides that liability still is limited to one month’s basic pay. When two or more surveys arise out of the same incident, the surveys must be cross-referenced to each other. If you know that your survey is related to another survey arising out of the same incident or the same set of facts, ensure that this cross-reference is made. For additional guidance, see paragraph 13-3, AR 735-5.

(b) Exceptions. Paragraph 13-39, AR 735-5, provides that the full amount of the loss, damage, or destruction may be assessed where the loss involves: personal arms or equipment, public funds, accountable officers, states or territories of the United States, contractors and contractor employees, non-appropriated fund activities, or individuals or entities not federally employed. For government quarter/furnishings, see below. The threshold for full liability is still simple negligence.

(c) Damage to government quarters/furnishings. When damage to government quarters or their contents (furnishings or equipment) is involved, liability may exceed one month's basic pay where the damage resulted from either gross negligence or willful misconduct. If only simple negligence is involved, liability is limited to one month's basic pay. Whereas simple negligence essentially is failing to use common sense, gross negligence primarily is failing to use any sense at all. If PVT I. B. Hungry started boiling grease to make french fries; forgot about it; and the kitchen in his government quarters caught fire, he would have committed an act of simple negligence and be liable for one month's basic pay. Someone else making french fries and using common sense, would have known not to leave the grease unattended. On the other hand, if PVT Hungry dug a barbecue pit in his living room; filled it with charcoal; doused it with five gallons of gasoline; and threw a match, thereby vaporizing his living room, he would have committed an act of gross negligence and be liable for the full amount of the loss. Note that paragraph 13-30c(5)(b), AR 735-5, provides that occupants are responsible for the conduct in their quarters of members of their household, guests, and pets, when the occupant is on notice of the particular risk(s) involved and fails to exercise available opportunities for preventing or limiting the damage or loss.

(4) Collective and individual liability.

(a) When you conclude that more than one individual is responsible for the loss or damage, you should make a recommendation for collective and individual liability in accordance with paragraphs 13-30c(6)(d) and 13-39c, AR 735-5. When the actual loss exceeds the combined monthly basic pay for all individuals recommended for liability, charge the full amount of each individual's monthly basic pay (the full amount of 1/12 of the annual pay for civilian employees). When the actual loss is less than the combined monthly basic pay for all individuals recommended for liability, compute the charges in proportion to each individual's monthly basic pay in accordance with Table 12-4, AR 735-5.

(b) For example, if two soldiers are collectively and individually liable for an actual loss of \$1000, and the basic pay of soldier A is \$500 and the monthly basic pay of soldier B is \$1,000, each soldier will pay a proportional share. To compute that proportional share for collective and individual liability, add the basic pays of the soldiers (\$500 plus \$1,000) for a combined basic pay total of \$1,500. Next, divide each soldier's monthly basic pay by the combined basic pay total and multiply the results by the actual loss amount to arrive at each soldier's financial liability. Soldier A would owe \$333.33 (\$500 divided by \$1,500, multiplied by \$1,000). Soldier B would owe \$666.67 (\$1,000 divided by \$1,500, multiplied by \$1,000). For collective and individual liability among civilian employees, use the same formula while substituting 1/12 annual pay for monthly basic pay.

12. Notifying the individual. In accordance with paragraph 13-32, AR 735-5, if you recommend an individual for financial liability, you must notify that person by memorandum of his rights (see AR 735-5, figure 13-11) and afford the individual a chance to submit matters in rebuttal. See also AR 735-5, paragraph 13-33.

a. If the individual is located locally, have him or her complete blocks 30, 31 and 32 of DA Form 4697. If the individual submits matters in rebuttal, you must consider them and note your consideration of them in a separate memorandum attached to the ROS as an exhibit. In your consideration of the rebuttal, you may either change your finding(s) and recommendation(s) or adhere to your original finding(s) and recommendation(s). If the individual does not submit the rebuttal within seven days, explain the individual's omission in block 26 of the DA Form 4697 and forward the ROS to the appointing authority.

b. If the individual is no longer stationed locally, you must send him a copy of the ROS and the notification memorandum (AR 735-5, figure 13-11) by certified mail, return receipt requested. A copy of the memorandum and the certified mail receipt must be attached to the ROS. Individuals located in the continental United States will be given 15 days from the date of mailing to respond. Individuals stationed outside the continental United States will be given 30 days to respond. If you receive a timely response, you must consider it and note your consideration in writing in the ROS. If the individual does not respond within the allowable time, explain the individual's omission in block 26 of the DA Form 4697 and forward the ROS.

c. When a soldier is dropped from the rolls, the notification memorandum and a copy of the ROS should be sent by certified mail, return receipt requested, to the soldier's home of record (HOR). The memorandum and certified mail receipt must be attached to the ROS. Because the soldier will likely not respond, you may write in block 26, "The survey and notification memorandum were sent to the soldier's home of record _____ on _____ 200X; the soldier has been dropped from the rolls and no response is expected."

13. Completing the Survey. After accomplishing the above, you should ensure that the ROS is administratively complete. All blanks should be filled. To ensure completeness go over the ROS by using the checklist appended to this "Guide." Prior to submitting your survey, you should review your findings and recommendations with an Administrative Law Attorney, if you have any questions. You may arrange an appointment with an attorney by calling 221-373/0485. The Administrative and Civil Law Division, Office of the Staff Judge Advocate, AMEDDC&S and Fort Sam Houston, is located in Building No. 134 (Stanley Road).

Check List for Reviewing Reports of Survey

____ **1.** Are all blocks on the front side of DA Form 4697 filled out properly (AR 735-5, figure 13-3A)?

____ **2.** Are blocks 21-32b completed (AR 735-5, figure 13-6A)?

3. Does block 26 contain the following:

____ **a.** A conclusion of simple negligence, willful misconduct, gross negligence, or no fault? See paragraph 11a(5) above.

____ **b.** Findings of fact, in the investigating officer's (IO) own words (supported by referenced exhibits) that show the bases for the IO's conclusions (AR 735-5, paragraph 13-30a)? See paragraph 11a above.

____ **c.** If contradictory evidence exists, a statement of how the contradiction was resolved (AR 735-5, paragraphs 13-29f and 13-30a(2))? See paragraph 11a(3) above.

____ **d.** If the IO relied on a self-serving statement from the person responsible for the property, an explanation of how that statement is confirmed by other evidence (AR 735-5, paragraphs 13-29e and 13-30a(1))? See paragraph 11a(3) above.

____ **e.** If uneconomically repairable property was involved, a statement of how it was disposed of or a statement recommending disposition (AR 735-5, paragraph 13-30c(4))? See paragraph 11a(7) above.

____ **f.** The new or depreciated (if appropriate) value of the lost, damaged, or destroyed property (AR 735-5, Appendix B)? See paragraph 11a(6) above.

____ **g.** A recommendation of either pecuniary liability or relief from liability. If liability is recommended, the soldier's name, SSN, monthly base pay at the time of the loss (for DOD civilians, 1/12 of his annual pay), ETS date, and the amount of liability (AR 735-5, paragraph 13-30c(6))? See paragraph 11(b) above.

____ **4.** If property was recovered during the survey, have the steps required by AR 735-5, paragraph. 14-16 been taken? See paragraph 5 above.

____ **5.** If the ROS is related to another ROS, has it been cross-referenced appropriately to the other ROS (AR 735-5, paragraph 13-3)? See paragraph 11b(3)(a).

____ **6.** If joint liability is recommended, was it properly computed (AR 735-5, paragraph 13-39c and Table 12-4)? See paragraph 11b(4) above.

7. Does block 27 contain the following:

_____ **a.** Block 27a - the actual loss (depreciated, if applicable) (AR 735-5, figure 13-6A)?

_____ **b.** Block 27b - the amount charged (FMV, depreciated value if applicable, ECOD, or ACOD) or one month's basic pay, whichever is less - unless one of the exceptions allowing greater liability applies (AR 735-5, paragraph 13-39)? See paragraph 11b(3)(b) above.

_____ **c.** Block 27c - the difference (if any) between block 27a and 27b?

_____ **8.** Did the survey officer date block 28, type his name in block 29a, and sign block 29b?

_____ **9.** Have all the soldiers recommended for liability been notified by memoranda and checked block 30, indicating whether or not they desired to submit a rebuttal, and signed block 32b (AR 735-5, paragraph 13-32c and figure 13-6A)? See paragraph 12 above.

_____ **a.** Is a copy of the notification memorandum attached to the ROS (AR 735-5, paragraph 13-32b)? See paragraph 12 above.

_____ **b.** If the soldier is unavailable for personal service of the notification memorandum, was the memorandum mailed by certified mail, return receipt requested? If so, is a copy of the memorandum and certified mail receipt included with the ROS (AR 735-5, paragraph 13-40)? See paragraph 12b above.

_____ **10.** If a rebuttal statement was not received, has the time period mandated by AR 735-5, paragraph 13-33b elapsed or did the soldier elect not to submit matters? In either case, does the ROS reflect this? See paragraph 12 above.

_____ **11.** If a rebuttal statement was received, does the ROS indicate that the IO considered it (AR 735-5, paragraphs 13-33b(5) and 13-33b(7))? See paragraph 12 above.

_____ **12.** If the ROS was the subject of a prior legal review, were all the comments complied with?